

REMARKS

The present Amendment is being submitted based on telephone communications with Examiner Alexander Smith and the applicant's undersigned attorney of record. Several telephone communications took place during the week of March 27, 2006. In those telephone conversations, Examiner Smith courteously indicated that the applicants may not have taken advantage of the statement suggested by Examiner Smith on page 15 of the Office Action dated October 20, 2004. Specifically, Examiner Smith courteously indicated that the claims which emphasized the fact that the elongate end of the line element may contain indicia suggestive to the pedestrian individual that they are to await their turn at the elongate element until ready to be received at the destination, would be more favorably received. Examiner Smith also pointed out that this language was not fully emphasized in the claims, and that addition of this language to the claims may render them to be allowable.

It is to be noted that one of the important features in this application is the fact that there is the elongate end of the line element, as well as the other path forming elements and the additional elements recited in the claims all lead the pedestrian individuals to the end of the line element. The end of the line element is very important in that this is where the pedestrian

individuals are effectively instructed to wait until they are capable of being received at the destination.

In addition, the fact that there are path forming elements which define a pathway of movement also adds to the uniqueness, in that this pathway is not designed to merely permit a walking movement. Rather, it is designed to retain people in a limited or confined space until they are ready to proceed to the end of the line and then to the destination beyond the end of the line. The path forming elements and the end of the line element cooperate to cause the movement of people in this way.

The fact that the end of the line element now has indicia informing people of a wait state position also aids in telling these people that they are to approach the end of the line, wait until ready to be received at a destination, and then move to the destination when ready. This is not merely a path in park to walk and observe the scenery. It is not a path to lead to a fire escape. It is a path which identifies limitations for people to move anywhere, except to the end of the line. In short, it is the equivalent of ropes and poles, but without the necessity of the ropes and poles.

With the presence of the indicia, there can be no doubt in the user's mind that they are to wait at the elongate end of the line element until they are ready to be received at a destination. As indicated previously, this destination may be a teller in a bank,

or clerk in a drug store, a ticket counter agent in an airline reservation terminal, etc. This system of the invention is highly effective in that it precludes people from congregating in large crowds, which tend to become unruly. Moreover, it maintains people in areas where the owner of the facility would like to maintain these people while they are waiting for a particular service. Heretofore, this combination has not existed, and it is therefore believed to patentably distinguish over the prior art.

In one of the aforesaid telephone interviews, Examiner Smith indicated that it was important to ensure that this application Serial No. 10/633,480 was patentably distinct from application Serial No. 09/758,934 and application Serial No. 10/635,871. The applicant has been careful to ensure that each of the three applications are patentably distinct.

It is be noted in the claims of application Serial No. 10/633,480, namely the present application, that Claim 33 (formerly Claim 1) calls for the upper surface of the substrate to be relatively free of elements which would obstruct the prominence of the end of the line element, the wait state indicia, and the path forming guidance elements, and the at least one movement indicator element. In this way, the pathway is not visually obstructed. Although the Examiner may attempt to argue that this language is functional and not a structural limitation, the applicant disagrees and respectfully urges reconsideration.

Language to the effect that the surface of the substrate is free of elements which would obstruct the prominence of other elements is clearly a limitation and a structural limitation in that it actually limits the claims. In other words, a structure which was not free of elements and which otherwise tended to obscure things, such as the end of the line position, the wait state indicia, etc., would not necessarily be infringed. Consequently, it can therefore be seen that, for example, Claim 33 of application Serial No. 10/633,480 clearly patentably distinguishes over the art of record.

It can also be seen that Claim 33 (formerly Claim 1) of the '480 application in clause (c), calls for the fact that the pair of discrete path forming guidance members are initially perpendicularly located to the end of the line element to form the pathway boundaries. This is not a limitation in any of the other cases, as for example, the '871 application or the '934 application.

Clause (e) of Claim 33 (formerly Claim 1) of the '480 application calls for the fact that the movement indicator element is on the pathway of movement. In the '871 application, the claim calls for the movement indicator element to be on the substrate. Moreover, this application calls for at least one movement indicator element, and not a plurality.

With respect to Claim 42 (formerly Claim 22), the second independent claim in application No. 10/633,480, it is to be noted that Claim 42 calls for the fact that the guidance and location control system is of light weight, so that it is immediately installable, relatively portable, and is usable in confined locations where other systems would not be adaptable. Here again, this is a structural limitation in that many mats, even if they had the elements on the surface thereof which are recited in these claims (which they do not), are not necessarily portable and are not necessarily easily installable. This almost presumes that the mat must be of a flexible, rollable nature. In addition, the mat further does not provide a visual obstruction. Such limitations do not exist in the claims of the other two applications, and it is therefore believed that Claim 42 and the claims dependent thereon in application Serial No. 10/633,480 distinguish over the other two applications.

Application Serial No. 09/758,934 is patentably distinct from application Serial No. 10/635,871 and application Serial No. 10/633,480 in that application Serial No. 09/758,934 in Claim 38 (formerly Claim 1), the first independent claim, calls for all of the components necessary for the guidance and location control system to be incorporated on one or more of the ground cover substrates. It is recognized that there can be systems for guiding and locating a group of individuals, the most simplest of which is

the ropes and poles. By definition, all of the components are not on one or more substrates, not readily movable, and require substantial setup time. The applicant can envision other systems in which all of the components, such as additional direction movement indicators, lights, or the like, are not all located on these substrates. As a result, this is a distinct and enforceable limitation.

If the Examiner took the position that this is not a structural limitation, then one must raise the inquiry as to why a system which had elements not located on the substrate would be infringed by this claim. In other words, if there was a system which did not have all of such elements on the substrates, it would not infringe Claim 1 of the '934 patent.

Claim 43 (formerly Claim 6) of application Serial No. 09/758,934 calls for the first informational message and the second informational message. It also calls for the substrate to be comprised of a first layer of a rigid material and the fact that the first layer does not curl when disposed on a ground surface. This is an important distinction in that the mats are formed of a rollable material. Yet, when laid flat on a ground surface, they do not curl. In any event, the first and second informational messages are not shown or claimed in the same way in the other two applications.

The third independent claim of application Serial No. 09/758,934, namely, Claim 49 (formerly Claim 25), recites that the boundaries forming the pathway are comprised of path forming elements in close proximity to opposite longitudinal edges of the ground cover substrate. This limitation does not exist in application No. 10/633,480, or application No. 10/635,871.

It must be recognized that it is not absolutely necessary to locate the path forming elements in close proximity to the edges of the substrate. Although that might be desirable, and is desirable in many cases, it is not absolutely necessary. The pathway is clearly defined without the path forming elements being located in close proximity to the edges of the substrate. Nevertheless, Claim 49 of application Serial No. 09/758,934 calls for these path forming members to be in close proximity to the opposite edges of the substrate, as stated.

Clause (b) of Claim 49 (formerly Claim 25) of the '934 application calls for the fact that the path forming members extend in parallel lines. Such is not the case in the '871 application.

Claim 56 (formerly Claim 36) of application Serial No. 09/758,934 also patentably distinguishes over the other two applications. The last independent claim of application Serial No. 09/758,934 (Claim 56), patentably distinguishes over the other two co-pending applications in that Claim 56 of the '934 application calls for the substrate to be comprised of the first layer of

polycarbonate material, the second layer of a styrene based copolymer and the third layer, which is the bonding layer. The other two applications do not specify in this detail the materials of construction of the mat. Consequently, it is believed that application No. 09/758,934 patentably distinguishes over the other two applications.

Application Serial No. 10/635,871 has also been amended to ensure that it patentably distinguishes over application Serial No. 09/758,934 and application Serial No. 10/633,480.

Claim 35 (formerly Claim 1) of application Serial No. 10/635,871 may be essentially broader than any other corresponding independent claim in the other two applications. Moreover, the independent claims in the other two applications have already been described and contain limitations which are not present in Claim 35 of application Serial No. 10/635,871. In that respect, it is believed that even though Claim 35 may be broader than the other two applications, it does not conflict patentably with the claims of the other applications.

Claim 40 (formerly Claim 6) of application Serial No. 10/635,871, namely, the second independent claim of said '871 application, calls for the first advertising promotional or informational message, and the second advertising or promotional informational message. However, this claim also recites that these messages have content related to the facility at which the

pedestrian individuals are being serviced, or to products or services offered by that facility. Clearly, this limitation does not appear in the other applications, and thereby renders Claim 6 of the '871 patent application to be patentably distinct from the other two applications.

Claim 35 (formerly Claim 1) of the '871 application further calls, in clause (e) for the first informational message to be removed, so that the second informational message may be substituted therefor. This limitation is not present in application Serial No. 09/758,934, which also has claims dealing with first and second informational messages.

Claim 50 (formerly Claim 13) of application Serial No. 10/635,871 patentably distinguishes over the co-pending application Serial No. 09/758,934 and co-pending application No. 10/633,480 in that Claim 50 of the '871 application calls for informational messages on the upper surface of the substrate, which are removable and replaceable. This distinguishes from Claim 6, for example, in application Serial No. 09/758,934, in that the claim in the '934 application calls for specifically the first informational message and the second informational message and their location on the substrate, and, more specifically, that one message is individually presented at any point in time. Further, Claim 43 (formerly Claim 6) of the '934 application also calls for the fact that the

edges of the first layer do not curl, as described above, and the fact that the substrate is comprised of a layer of rigid material. Claim 50 (formerly Claim 29) of application No. 10/635,871 calls for the method of guiding the group of pedestrian individuals and means associated with the substrate to arrange the orientation of the substrate on the ground surface to conform to an existing environment. In this way, optimization of use of pedestrian walking space is achieved. Again, if the Examining Attorney contends that such language is functional, it is to be noted that there is not necessarily means on prior art substrates allowing them to be located on a ground surface and arranged in a certain orientation. This means, for example, the mats could have curved edges, which allow the pathway to curve, angled edges, which allow a sharp angle, etc. This feature is quite important in that it allows for the pathway to effectively circumvent obstructions and still lead individuals to the desired destination with the minimum amount of consumed space.

The applicant has endeavored to place the claims in this application in condition for allowance along the lines suggested by Examiner Smith. Claims which did not have the capability of being conformed to the limitations which Examiner Smith proposed have been eliminated. It is, therefore, believed that all of the claims contain allowable subject matter.

Furthermore, the applicant has very carefully examined the claim structure to ensure that the claims patentably distinguish over the other two co-pending applications.

It is, therefore, believed that this application should now be in allowable condition, and allowance is therefore respectfully solicited.

Dated: Sept 2, 2006

Respectfully submitted,


ROBERT J. SCHAAP
Registration No. 20,577
Attorney for Applicant
(818) 346-6555

C:\Documents and Settings\All Users\Documents\Data\Pharo\09758934\Amendment E Final Revised 8-25-06